

**ENTERED**

May 26, 2016

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

ELVA ROSA CARRIZALES-MARTINEZ §

Petitioner §

VS. §

CIVIL ACTION NO. 4:16-CV-1383

(Criminal No. 4:13-CR-314)

UNITED STATES OF AMERICA §

**ORDER**

The Petitioner has filed a Motion to Vacate Sentence pursuant to 28 U.S.C. § 2255 (Instrument No. 1).

The Court has carefully considered the present motion along with the records of the prior criminal proceeding and concludes that the Defendant is entitled to no relief. Therefore,

**IT IS HEREBY ORDERED** that the motion is summarily **DISMISSED** pursuant to Rule 4(b) of the Rules Governing Section 2255 Proceedings in the United States District Courts proceedings in the United States District Courts.

This Court finds that a certificate of appealability should not be granted in this case. FED R. APP. P. 22(B); *Muniz v. Johnson*, 114 F.3d 43 (5th Cir.1997) (district court must deny certificate of appealability before petitioner can request one from court of appeals); *Else v. Johnson*, 104 F.3d 82, 83 (5th Cir. 1997) (under habeas amendments, district courts retain authority to issue certificates for § 2254 petitions). A certificate of appealability requires the petitioner to make a substantial showing of the denial of a federal right. 28 U.S.C. § 2253(c)(2); *Barefoot v. Estelle*, 463 U.S. 880, 893 (1983); *Drinkard v. Johnson*, 97 F.3d 751, 756 (5th Cir. 1996) (standard for certificate of appealability same as former standard for certificate of probable cause). Petitioner need not demonstrate that he will prevail on the

merits, but must demonstrate that the issues are debatable among reasonable jurists. *Barefoot*,  
463 U.S. at 893 n.4.

The Clerk shall enter this Order and provide a copy to all parties.

SIGNED on this the 26<sup>th</sup> day of May, 2016, at Houston, Texas.

A handwritten signature in black ink, appearing to read "Vanessa D. Gilmore", written over a horizontal line.

**VANESSA D. GILMORE**  
**UNITED STATES DISTRICT JUDGE**